

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

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December 21, 2018

Ms. Karen S. Mitchell
Northern District of Texas, Dallas
United States District Court
1100 Commerce Street
Earle Cabell Federal Building
Room 1452
Dallas, TX 75242

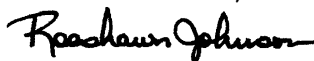
No. 18-10711 Willie Atkins v. Lorie Davis, Director
USDC No. 3:16-CV-2942

Dear Ms. Mitchell,

Enclosed is a copy of the judgment issued as the mandate.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Roeshawn A. Johnson, Deputy Clerk
504-310-7998

cc:

Mr. Willie James Atkins
Ms. Jessica Michelle Manojlovich

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 18-10711



A True Copy
Certified order issued Dec 21, 2018

Steph W. Conner
Clerk, U.S. Court of Appeals, Fifth Circuit

WILLIE JAMES ATKINS,

Petitioner-Appellant,

v.

LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent-Appellee.

Appeal from the United States District Court for the
Northern District of Texas

O R D E R:

Willie James Atkins, Texas prisoner # 1441701, applies for a certificate of appealability (COA) to appeal the district court's dismissal of his 28 U.S.C. § 2254 petition as time barred. The applicant's § 2254 petition challenged his conviction for attempted sexual performance of a child for employment. According to the applicant, state action impeded the timely filing of his § 2254 petition, and he is entitled to equitable tolling due to the state court's refusal to provide the findings of fact related to the denial of his state habeas application.

A COA may be issued only if the applicant makes a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). When the district court denies relief based on procedural grounds, a COA should be

No. 18-10711

granted “when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

The applicant has not made the required showing to obtain a COA. *See id.* Accordingly, his application for a COA is DENIED. His motion for leave to file an amended COA motion and brief is GRANTED. His motion for leave to amend the order designating the notice of appeal is DENIED.



ANDREW S. OLDHAM
UNITED STATES CIRCUIT JUDGE